

STATE OF MICHIGAN
DEPARTMENT OF INSURANCE AND FINANCIAL SERVICES

Before the Director of the Department of Insurance and Financial Services

In the matter of:

Vanesa Munoz

Enforcement Case No. 15-12650

Respondent.

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Issued and entered
on September 17, 2015
by Teri L. Morante
Chief Deputy Director

**ORDER TO CEASE AND DESIST WITH STATEMENT OF FINDINGS
AND NOTICE OF OPPORTUNITY FOR HEARING**

Pursuant to Section 251 of the Michigan Insurance Code (Code), MCL 500.251, and after reviewing evidence of the conduct described in the attached Statement of Finding, and

WHEREAS, the Director of the Department of Insurance and Financial Services finds that immediate action is necessary and appropriate in the public interest for the protection of the public health, safety, and welfare, and consistent with the purposes fairly intended by public policy and provisions of the Code,

IT IS THEREFORE ORDERED THAT:

1. The Respondent shall immediately **CEASE AND DESIST** from all activities in violation of the Code as described in the Statement of Findings.
2. A copy of this Order shall be immediately served upon Respondent. As to any Respondent, this Order shall be effective upon the date of service.
3. Respondent will have 30 calendar days after the service of this Order to contest it by requesting a hearing. Within 10 calendar days after receiving the request, the hearing process shall commence. This Order shall remain in effect until further order of the Director. Any request for a hearing should be addressed to the Department of Insurance and Financial Services, Attention: Valerie Donally, Hearings Clerk, P.O. Box 30220, Lansing, MI 48909-7720 or faxed to 517-284-8843.
4. Any such hearing held shall address the following issues:
 - a. The facts set forth in the Statement of Findings.

- b. The continuation of the Order to Cease and Desist.
 - c. Restitution to be paid by the Respondent.
5. If a hearing is requested, an administrative law judge from the Michigan Administrative Hearing System shall preside over any such hearing.
6. The Director retains jurisdiction of the matters contained herein and the authority to issue such further Orders as shall be deemed just, necessary, and appropriate.
7. Pursuant to Section 251(6) of the Code, MCL 500.251(6), a person who violates or otherwise fails to comply with an Order to Cease and Desist is subject to one or more of the following:
- a. Payment of a civil fine of not more than \$1,000 for each violation not to exceed an aggregate civil fine of \$30,000. However, if the person knew or reasonably should have known the conduct was in violation of the cease and desist order, the person shall be subject to a civil fine of not more than \$25,000 for each violation not to exceed an aggregate civil fine of \$250,000.
 - b. Suspension or revocation of the person's license or certificate of authority.
 - c. Complete restitution, in the form, amount, and within the period determined by the Director, to all persons in Michigan damaged by the violation or failure to comply.


Teri L. Morante

Chief Deputy Director

Dated: Sept. 17, 2015

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STATEMENT OF FINDINGS

1. Pursuant to Executive Order 2013-1 all authority, powers, duties, functions, and responsibilities of the Commissioner of the Office of Financial and Insurance Regulation have been transferred to the Director of the Department of Insurance and Financial Services (DIFS).
2. Pursuant to Section 251(1) of the Code, MCL 500.251(1), the Director is empowered to issue a cease and desist order if the Director finds any of the following:
 - (a) A person is conducting transactions of insurance for which a certificate of authority is required by this act without having obtained a certificate of authority.
 - (b) A person is acting as an insurance agent, solicitor, adjuster, or counselor without a license as required by this act.
 - (c) A person is engaged in an act or practice in the business of insurance for which authority from or notification to the commissioner is required by this act and the person has not received authority or given notification.
 - (d) A person authorized to engage in the business of insurance under this act is engaged in conduct that presents an immediate danger to public health, safety, or welfare. MCL 500.251(1).
3. Under Section 1201a of the Code, it is a violation for a person to sell, solicit, or negotiate insurance in this state for any line of insurance without first obtaining a license or qualification for that line. MCL 500.1201a(1).
 - a. "Negotiate" means the act of conferring directly with or offering advice directly to a purchaser or prospective purchaser of a particular contract of insurance concerning any of the substantive benefits, terms, or conditions of the contract, provided that the person engaged in that act either sells insurance or obtains insurance from insurers for purchasers. MCL 500.1201(k).

- b. “Sell” means to exchange a contract of insurance by any means, for money or its equivalent, on behalf of an insurance company. MCL 500.1201(l).
 - c. “Solicit” means attempting to sell insurance or asking or urging a person to apply for a particular kind of insurance from a particular company. MCL 500.1201(m).
- 4. Under Section 1208a(1) of the Code, an insurance producer shall not act as an agent of an insurer unless the insurance producer becomes an appointed agent of that insurer. MCL 500.1208a(1).
 - 5. DIFS Staff received information about possible unlicensed activity by the Respondent.
 - 6. DIFS Staff found during a record review and investigation of Fiesta Auto Insurance Agency (System ID No. 0089228)(Fiesta) located at 7938 W. Vernor Highway, Detroit, MI, that Respondent was engaged in activities regulated by the Code without the requisite license, and that she violated the insurance laws of this state.
 - 7. The review of insurance transactions conducted at Fiesta shows that Respondent solicited automobile policies, accepted applications for insurance, discussed rates, offered advice on insurance coverages, and accepted premium money in exchange for certificates of insurance, all activities requiring licensure.
 - 8. More specifically, **SMG** visited Fiesta on February 3, 2015, to purchase auto insurance. Respondent assisted with her transaction and solicited the purchase of a six-month auto policy underwritten by Everest National Insurance (Everest). She told SMG the required premium down payment to start the policy was \$303. In exchange for the premium received, Respondent provided SMG with a Michigan Certificate of No-Fault Insurance and did not remit all the money collected to Everest.
 - 9. Respondent was not licensed nor was she properly appointed to solicit or bind coverage for Everest Insurance in violation of Section 1208a(1) of Code, MCL 500.1208a(1).
 - 10. Respondent held herself out to the public as being able to lawfully sell, solicit and negotiate Everest automobile insurance policies when she was not, and did so in violation of Section 1201a(1) of the Code, MCL 500.1201a(1), by soliciting automobile insurance policies to customers from specific auto insurers, accepting premium in exchange for certificates of insurance and purporting to bind coverage effective on the date of purchase.
 - 11. Based on the aforementioned findings, Respondent is acting as an insurance producer without a license and without appointment as required by the Code.